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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,622	12/21/2000	Jin Lu	US000383	1117

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PHILIPS ELECTRONICS NORTH AMERICAN CORP
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EXAMINER

USTARIS, JOSEPH G

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 08/10/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/745,622

Applicant(s)

LU, JIN

Examiner

Joseph G Ustaris

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment dated 17 May 2004 in application 09/745,622.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vantalón et al. (US006628891B1) in view of Bertram et al. (US 20030103532A1) and Bacon et al. (US 20020101991A1).

Regarding claim 1, Vantalón et al. (Vantalón) discloses a multi-purpose digital television receiver or "set-top box" that interfaces with a conditional access module (CAM). The CAM receives out-of-band (OOB) service data or "information" from a service provider (See column 6 lines 15-20) and sends the OOB data to the microprocessor or "processor" unit of the receiver via extended channel or "transport stream channel" (See Fig. 4 and 5 and column 6 lines 50-65). However, Vantalón lacks a system or method where the CAM sends the OOB data as packets and for the CAM to be embodied as a point of deployment (POD) module.

Bertram et al. (Bertram) discloses a method for sending data to the subscriber's equipment using content streams. The content data is configured or "constructed" as packets to be sent to the subscriber's equipment within the content stream (See paragraph 0020). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the CAM disclosed by Vantalón to send the OOB data as packets to the receiver or subscriber's equipment, as taught by Bertram, in order to provide a more organized means of sending data to the receiver so that the data can be easily updated if need be.

Bacon et al. (Bacon) discloses an external conditional access module that is used within a host terminal or "set-top box" (See Fig. 2). Bacon discloses that the external conditional access module is also known as a POD (See paragraph 0002). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the CAM disclosed by Vantalón to be embodied as a POD, as taught by Bacon, so that the module would be in accordance with a well known and established interface thereby ensuring greater compatibility between users and providers.

Regarding claim 2, Vantalón in view of Bertram and Bacon discloses that the CAM or POD includes a transmit buffer where packets are stored prior to being sent (See Vantalón column 8 lines 1-15).

Regarding claim 3, Bertram further teaches a method of combining asset or "OOB" packets with content or "in-band (IB)" packets into one transport stream. Asset packets include control scripts much like how the OOB channel is used to send control

data (See paragraph 0021 lines 1-2). The content packets include content material much like how the IB channel is used to send video/audio data. Bertram combines the content packets (Labeled as C in Fig. 2) and asset packets (Labeled as A in Fig. 2) in a way so that the asset packets are placed in between the content packets or "packets between two consecutive transport packets of an original in-bound transport stream" (See Fig. 2A and 2B). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the POD disclosed by Vantalon in view of Bertram and Bacon to combine the OOB data with the IB data so that the OOB packets lie between two IB packets, as taught by Bertram, in order to reduce the number of connection needed to interface the POD with the receiver by providing only one transport stream for both IB and OOB packets.

Claims 4, 5, and 6 contains the limitations of claims 1 and 3 and is analyzed as previously discussed with respect to those claims.

Claim 7 contains the limitations of claim 1 (wherein the CAM is also known as a "data module") and is analyzed as previously discussed with respect to that claim.

Claim 8 contains the limitations of claims 2 and 7 and is analyzed as previously discussed with respect to those claims.

Claim 9 contains the limitations of claims 3 and 7 and is analyzed as previously discussed with respect to those claims.

Claim 10 contains the limitations of claims 1 and 7 (wherein Bacon discloses a POD) and is analyzed as previously discussed with respect to those claims.

Furthermore, it is noted that smart cards, wireless data interface appliances, personal computers, or Internet appliances are well known in the art.

Claim 11 contains the limitations of claims 1, 4, 6, and 7 and is analyzed as previously discussed with respect to those claims.

Claims 12, 13, and 14 (wherein the receiver is also known as a "host device") contains the limitations of claims 1 and 3 and is analyzed as previously discussed with respect to those claims.

Claim 15 contains the limitations of claims 2 and 4 and is analyzed as previously discussed with respect to those claims.

Response to Arguments

3. Applicant's arguments filed 17 May 2004 have been fully considered but they are not persuasive.

The objection to the drawings is now withdrawn in view of the amendments.

In response to applicant's argument that the Office Action fails show how the applied art are combined in regards to independent claims 1, 4, 7, and 12, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Bertram was introduced because he teaches that it is well known in the art that packets are utilized within a transport stream.

Respectfully, the rejection on claims 1-14 still stands and claim 15 has been rejected as discussed in the claim rejections above.

Conclusion

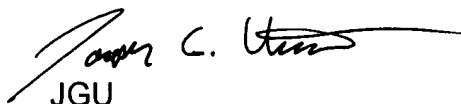
4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Ustaris whose telephone number is (703) 305-0377. The examiner can normally be reached on Monday-Friday with alternate Fridays off from 7:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380. The fax phone number for this Group is (703) 872-9306.

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (703) 305-4700.



JGU

July 29, 2004

Joseph.Ustaris@uspto.gov



VIVEK SRIVASTAVA
PRIMARY EXAMINER